



## State of Utah

### Department of Natural Resources

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April 4, 2007

TO: Internal File

THRU: D. Wayne Hedberg, Permit Supervisor *DWH*

FROM: Joe Helfrich, Environmental Scientist, Biology *Jeh*

RE: DOGM's Informal Consultation with USFWS and Informal Decision for the Bear Canyon Mine Lease Additions, Co-op Mining Company, Bear Canyon Mine, C/015/0025, Task ID #2734

### DOGM TECHNICAL ANALYSIS SUMMARY:

#### SUMMARY:

On July 22, 2005 Co-Op Mining Company, (aka C. W. Mining Company) submitted an amendment to add 80 acres to lease U-024316, 2,196 acres to lease U-61049, 1400 acres to lease U- 46484, 1,108.27 acres to lease U-61048 and 2,740 acres of private property to the current permit area. On May 21, 2006, Co-Op Mining Company submitted a response to the deficiencies enumerated in the Divisions first technical review. On August 9, 2006, Co-Op Mining Company hand delivered a response to the deficiencies enumerated in the Divisions second technical review. On October 30, 2006, Co-Op Mining Company hand delivered a response to the deficiencies enumerated in the Divisions third technical review. On January 22, 2007, Co-Op Mining Company hand delivered a response to the deficiencies enumerated in the Divisions fourth technical review. The lease additions are extensions of existing leases for the Bear Canyon mine located in Huntington Canyon. This memo will include a review of the regulations that include the requirements of the endangered species act and consultation with the U. S. Fish & Wildlife Service (USFWS).

#### THREATENED, ENDANGERED, AND SENSITIVE ANIMAL/PLANT SPECIES

The Emery County TES list includes Bald Eagle, (*Haliaeetus leucocephalus*), Barneby Reed-mustard, (*Schoenocrambe barnebyi*), Black-footed Ferret (*Mustela nigripes*), Bonytail, (*Gila elegans*), Colorado Pikeminnow, (*Ptychocheilus lucius*), Humpback Chub, (*Gila cypha*), Jones Cycladenia, (*Cycladenia humilis* var. *jonesii*), Last Chance Townsendia, (*Townsendia aprica*), Maguire Daisy, (*Erigeron maguirei*), Mexican Spotted Owl, (*Strix occidentalis*), Razorback Sucker,

(*Xyrauchen texanus*), San Rafael Cactus, (*Pediocactus despainii*), Winkler Cactus, (*Pediocactus winkleri*), Wright Fishhook Cactus, (*Sclerocactus wrightiae*), Southwestern Willow Flycatcher, (*Empidonax traillii extimus*) and Yellow-billed Cuckoo, (*Coccyzus americanus*).

Additional species in Utah's Sensitive species list include the following;

**Conservation Agreement Species**

Northern Goshawk

*Accipiter gentilis*

**Wildlife Species of Concern**

Grasshopper Sparrow

*Ammodramus savannarum*

Short-eared Owl

*Asio flammeus*

Burrowing Owl

*Athene cunicularia*

Ferruginous Hawk

*Buteo regalis*

Greater Sage-grouse

*Centrocercus urophasianus*

Black Swift

*Cypseloides niger*

Bobolink

*Dolichonyx oryzivorus*

Lewis's Woodpecker

*Melanerpes lewis*

Long-billed Curlew

*Numenius americanus*

American White Pelican

*Pelecanus erythrorhynchos*

Three-toed Woodpecker

*Picoides tridactylus*

Sharp-tailed Grouse

*Tympanuchus phasianellus*

The Application meets the requirements of R645-301-322 because the Application or Mining and Reclamation Plan (MRP) provides supporting documentation, and maps on threatened, endangered, and sensitive (TES) species that could occur within or adjacent to the proposed lease area additions. According to the Division of Wildlife Resources (DWR) the only species of concern because of the relatively high elevation were the Townsend's Big Eared Bat and the Flamulated Owl for which a study was completed. The results of the study revealed that neither of the species occurred in the area.

**Bald and Golden Eagles**

According to the 2006, raptor survey and data with the DWR bald eagles are not known to nest in the proposed lease area but may pass through during the winter months or periods of migration. The Applicant has committed to conducting Raptor surveys yearly during the life of the mine.

Chapter three page 3-68 of the application includes a commitment to develop a raptor mitigation plan by July 1, 2007 in consultation with the DWR, DOGM, USFWS, U.S. Forest Service (USFS). and the Bureau of Land Management (BLM) to mitigate impacts to nests and or raptors from potential escarpment failure caused

by subsidence. A map of the 2006, DWR raptor survey with the nest site locations is included in the application as plate 5-3A. Plate 5-3A also shows that nests 902, 903, 904, 907, 908, 920 and 921, are within the limits of predicted subsidence. The mitigation plan needs to include site-specific analysis of these nest sites and possibly others for potential loss due to escarpment failure. It should also be noted that C. W. Mining Company would need authorization from the USFS to mine under escarpment areas, (Federal Lease Stipulation #13). The applicant has also proposed to avoid mining activities in the panels during nesting periods. If unavoidable obstructions such as fencing will be placed over the nest sites to prevent nesting. Additional alternatives will be included in the mitigation plan.

All supporting surveys (MRP) on TES plant and animal species show that there were no observations of threatened or endangered species in the areas surveyed. There have been no confirmed sightings of black-footed ferrets within Carbon County during 1995, 1996, and the first quarter of 1997 (DWR, Section 322.200).

#### **DOGM INFORMAL, CONSULTATION WITH USFWS SUMMARY:**

The Division initiated informal consultation with the USFWS (Betsy Herrmann) on January 22, 2007 for this application. Joe Helfrich and Wayne Hedberg informed Betsy that there was no surface disturbance for the extension area and no known TES species according to the survey performed by Dr. Collins. Joe also discussed with Betsy the mine water consumption calculations for the mine that resulted in an estimated consumption of 69 acre-feet per year which constitutes a "May affect, is likely to adversely affect" determination. Because the mine water consumption was greater than zero and constituted a may affect determination, the information on the four endangered fish species was forwarded to the Office of Surface Mining Reclamation and Enforcement (OSM). On December 6, 2006, OSM initiated formal consultation with the USFWS. Copies of the correspondence between the two agencies are included in the Division's application package to OSM for Federal mining plan approval.

#### **DOGM INFORMAL DECISION**

The Division has determined that the proposed Bear Canyon Mine lease additions will have "no effect" on the Bald eagle, Barneby Reed-mustard, Black-footed Ferret, Jones Cycladenia, Last Chance Townsendia, Maguire Daisy, Mexican Spotted Owl, San Rafael Cactus, Winkler Cactus, Wright Fishhook Cactus, Southwestern Willow Flycatcher, and Yellow-billed Cuckoo, since there will be no surface disturbance and there are no observations that support the presence of the listed threatened and endangered species.